

The provision for punishment of aiders and abettors in section 470 of title 18, U.S.C., 1940 ed., was omitted as unnecessary since they are punishable as principals by section 2 of this title.

Sections 471 and 474 of title 18, U.S.C., 1940 ed., were omitted as obviously unnecessary.

AMENDMENTS

1996—Pub. L. 104-294 substituted “fined under this title” for “fined not more than \$1,000” in fourth par.

CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

CROSS REFERENCES

Exclusion of stowaways under immigration laws, see section 1182 of Title 8, Aliens and Nationality.

Unlawful bringing of aliens into United States, alien stowaways, see section 1323 of Title 8.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title.

CHAPTER 109—SEARCHES AND SEIZURES

Sec.	
2231.	Assault or resistance.
2232.	Destruction or removal of property to prevent seizure.
2233.	Rescue of seized property.
2234.	Authority exceeded in executing warrant.
2235.	Search warrant procured maliciously.
2236.	Searches without warrant.

CROSS REFERENCES

Procedure relating to searches and seizures, see sections 3101 to 3116 of this title and rule 41 of the Federal Rules of Criminal Procedure, Appendix to this title.

§ 2231. Assault or resistance

(a) Whoever forcibly assaults, resists, opposes, prevents, impedes, intimidates, or interferes with any person authorized to serve or execute search warrants or to make searches and seizures while engaged in the performance of his duties with regard thereto or on account of the performance of such duties, shall be fined under this title or imprisoned not more than three years, or both; and—

(b) Whoever, in committing any act in violation of this section, uses any deadly or dangerous weapon, shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 802; Sept. 13, 1994, Pub. L. 103-322, title XXXIII, § 330016(1)(K), (L), 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 121, 253, 254, 628 (Mar. 4, 1909, ch. 321, § 65, 35 Stat. 1100; June 15, 1917, ch. 30, title XI, § 18, 40 Stat. 230; May 18, 1934, ch. 299, §§ 1, 2, 48 Stat. 780, 781; Feb. 8, 1936, ch. 40, 49 Stat. 1105; June 26, 1936, ch. 830, title I, § 3, 49 Stat. 1940; Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 Fed. Reg. 2731, 53 Stat. 1433; June 13, 1940, ch. 359, 54 Stat. 391).

Section consolidates section 628 of title 18, U.S.C., 1940 ed., and the portion of section 121 of said title relating to resistance of persons authorized to make searches.

Punishment provided by section 121 of title 18, U.S.C., 1940 ed., was \$2,000 fine and imprisonment for 1 year. Section 628 of said title was part of Espionage Act of June 15, 1917, ch. 30, title XIII, § 1, 40 Stat. 231, prescribing fine of not more than \$1,000 and imprisonment not

exceeding 2 years for resisting service, execution of search warrant, or assaulting an officer.

Section 253 of title 18, U.S.C., 1940 ed., enumerated United States marshals, deputies, and assistants, Federal Bureau of Investigation agents, and numerous other officers, the killing of whom is denounced as a Federal offense.

Section 254 of title 18, U.S.C., 1940 ed., denounced the assaulting of such officers and prescribed punishment therefor without regard to nature of duties involved or performed.

In other words sections 253 and 254 of title 18, U.S.C., 1940 ed., were not limited to officers executing search warrants.

Officers enumerated in section 253 of title 18, U.S.C., 1940 ed., were substantially all those who serve or execute search warrants. Therefore, the language and punishment under section 254 of said title constitute basis of this revised section. No change in legislative intent is involved, as the amendments of sections 253 and 254 of said title are the latest enactments.

The provisions of section 121 of title 18, U.S.C., 1940 ed., relating to rescue of property from seizing officer or its destruction to prevent seizure, are incorporated in sections 2232 and 2233 of this title.

Minor changes were made in translation and phraseology.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-322, § 330016(1)(K), substituted “fined under this title” for “fined not more than \$5,000”.

Subsec. (b). Pub. L. 103-322, § 330016(1)(L), substituted “fined under this title” for “fined not more than \$10,000”.

CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

CROSS REFERENCES

Assaulting or resisting certain officers or employees, see section 111 of this title.

Jurisdiction of offenses, see section 3241 of this title. Protection of officers and employees of United States, see section 1114 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title.

§ 2232. Destruction or removal of property to prevent seizure

(a) PHYSICAL INTERFERENCE WITH SEARCH.—Whoever, before, during, or after seizure of any property by any person authorized to make searches and seizures, in order to prevent the seizure or securing of any goods, wares, or merchandise by such person, staves, breaks, throws overboard, destroys, or removes the same, shall be fined under this title or imprisoned not more than five years, or both.

(b) NOTICE OF SEARCH.—Whoever, having knowledge that any person authorized to make searches and seizures has been authorized or is otherwise likely to make a search or seizure, in order to prevent the authorized seizing or securing of any person, goods, wares, merchandise or other property, gives notice or attempts to give notice of the possible search or seizure to any person shall be fined under this title or imprisoned not more than five years, or both.

(c) NOTICE OF CERTAIN ELECTRONIC SURVEILLANCE.—Whoever, having knowledge that a Federal investigative or law enforcement officer has been authorized or has applied for authorization

under chapter 119 to intercept a wire, oral, or electronic communication, in order to obstruct, impede, or prevent such interception, gives notice or attempts to give notice of the possible interception to any person shall be fined under this title or imprisoned not more than five years, or both.

Whoever, having knowledge that a Federal officer has been authorized or has applied for authorization to conduct electronic surveillance under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801, et seq.), in order to obstruct, impede, or prevent such activity, gives notice or attempts to give notice of the possible activity to any person shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 802; Oct. 12, 1984, Pub. L. 98-473, title II, § 1103, 98 Stat. 2143; Oct. 21, 1986, Pub. L. 99-508, title I, § 109, 100 Stat. 1858; Nov. 10, 1986, Pub. L. 99-646, § 33, 100 Stat. 3598; Nov. 18, 1988, Pub. L. 100-690, title VII, § 7066, 102 Stat. 4404; Sept. 13, 1994, Pub. L. 103-322, title XXXIII, § 330016(1)(L), 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 121 (Mar. 4, 1909, ch. 321, §§ 65, 35 Stat. 1100).

Section was formed from the words following the first semicolon and ending with the second semicolon, in section 121 of title 18, U.S.C., 1940 ed.

The remaining provisions of section 121 of title 18, U.S.C., 1940 ed., relating to assaulting, resisting, or interfering with customs officers, revenue officers, or other persons, and to the rescue of seized property, constitute, along with provisions from other sections, sections 2231 and 2233 of this title.

Minor changes were made in phraseology.

REFERENCES IN TEXT

The Foreign Intelligence Surveillance Act of 1978, referred to in subsec. (c), is Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, as amended, which is classified principally to chapter 36 (§ 1801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 50 and Tables.

AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000”.

1988—Subsec. (c). Pub. L. 100-690 inserted “of 1978” after “Surveillance Act”.

1986—Pub. L. 99-646 directed the designation of first and second pars. as subsecs. (a) and (b), respectively, which had been previously so designated by Pub. L. 99-508, and substituted “imprisoned not” for “imprisoned” in subsec. (a).

Pub. L. 99-508 designated first and second pars. as subsecs. (a) and (b), respectively, and inserted headings, and added subsec. (c).

1984—Pub. L. 98-473, § 1103(a), substituted provisions raising the maximum fine from \$2,000 to \$10,000 and raising the maximum term of imprisonment from two years to five years.

Pub. L. 98-473, § 1103(b), inserted paragraph relating to the penalties for warning the subject of a search.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-508 effective 90 days after Oct. 21, 1986, and, in case of conduct pursuant to court order or extension, applicable only with respect to court orders and extensions made after such date, with

special rule for State authorizations of interceptions, see section 111 of Pub. L. 99-508, set out as a note under section 2510 of this title.

§ 2233. Rescue of seized property

Whoever forcibly rescues, dispossesses, or attempts to rescue or dispossess any property, articles, or objects after the same shall have been taken, detained, or seized by any officer or other person under the authority of any revenue law of the United States, or by any person authorized to make searches and seizures, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 802; Sept. 13, 1994, Pub. L. 103-322, title XXXIII, § 330016(1)(I), 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 121, 128 (Mar. 4, 1909, ch. 321, §§ 65, 71, 35 Stat. 1100, 1101).

Section consolidates that portion of section 121 of title 18, U.S.C., 1940 ed., relating to rescue of seized property, with section 128 of title 18, U.S.C., 1940 ed.

The remaining provisions of section 121 of present title 18, U.S.C., 1940 ed., relating to assaulting, resisting, or interfering with customs officers, revenue officers, or other persons, and to the destruction or removal of property to prevent seizure, constitute sections 2231 and 2232 of this title, the former provisions being consolidated with certain provisions of other sections.

Said section 121 of present title 18, U.S.C., 1940 ed., provided for punishment by fine of not more than \$2,000 or imprisonment of not more than 1 year, or both, of persons rescuing, attempting to rescue, or causing to be rescued, “any property” which has been seized by “any person” authorized to make searches and seizures.

Said section 128 of present title 18, U.S.C., 1940 ed., provided for punishment by fine of not more than \$300 and imprisonment for not more than 1 year of persons dispossessing, rescuing, or attempting to dispossess or rescue, or aiding or assisting in dispossessing or rescuing, “any property taken or detained by any officer or other person under the authority of any revenue law of the United States.”

This revised section adopts the maximum fine provisions of section 121 of title 18, U.S.C., 1940 ed., and extends the maximum term of imprisonment to 2 years. This was deemed advisable so that uniformity of punishment would be established and the provisions would be sufficiently broad to impose punishment commensurate with the gravity of the offense. (See section 3601(c)(2) of title 26, U.S.C., 1940 ed., Internal Revenue Code.)

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary in view of definition of “principal” in section 2 of this title.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$2,000”.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 2234. Authority exceeded in executing warrant

Whoever, in executing a search warrant, willfully exceeds his authority or exercises it with unnecessary severity, shall be fined under this title or imprisoned not more than one year.

(June 25, 1948, ch. 645, 62 Stat. 803; Oct. 11, 1996, Pub. L. 104-294, title VI, § 601(a)(8), 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §631 (June 15, 1917, ch. 30, title XI, §21, 40 Stat. 230).

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104-294 substituted “fined under this title” for “fined not more than \$1,000”.

CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

CROSS REFERENCES

Breaking doors or windows to execute warrant, see section 3109 of this title.

Jurisdiction of offenses, see section 3241 of this title.

Minor offenses tried by United States magistrate judges as excluding offenses punishable under this section, see section 3401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 21 section 885.

§ 2235. Search warrant procured maliciously

Whoever maliciously and without probable cause procures a search warrant to be issued and executed, shall be fined under this title or imprisoned not more than one year.

(June 25, 1948, ch. 645, 62 Stat. 803; Oct. 11, 1996, Pub. L. 104-294, title VI, §601(a)(8), 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §630 (June 15, 1917, ch. 30, title XI, §20, 40 Stat. 230).

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104-294 substituted “fined under this title” for “fined not more than \$1,000”.

CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

Minor offenses tried by United States magistrate judges as excluding offenses punishable under this section, see section 3401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 21 section 885.

§ 2236. Searches without warrant

Whoever, being an officer, agent, or employee of the United States or any department or agency thereof, engaged in the enforcement of any law of the United States, searches any private dwelling used and occupied as such dwelling without a warrant directing such search, or maliciously and without reasonable cause searches any other building or property without a search warrant, shall be fined for a first offense not more than \$1,000; and, for a subsequent offense, shall be fined under this title or imprisoned not more than one year, or both.

This section shall not apply to any person—

- (a) serving a warrant of arrest; or
- (b) arresting or attempting to arrest a person committing or attempting to commit an

offense in his presence, or who has committed or is suspected on reasonable grounds of having committed a felony; or

(c) making a search at the request or invitation or with the consent of the occupant of the premises.

(June 25, 1948, ch. 645, 62 Stat. 803; Oct. 11, 1996, Pub. L. 104-294, title VI, §601(a)(8), 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §53a (Aug. 27, 1935, ch. 740, §201, 49 Stat. 877).

Words “or any department or agency thereof” were inserted to avoid ambiguity as to scope of section. (See definitive section 6 of this title.)

The exception in the case of an invitation or the consent of the occupant, was inserted to make the section complete and remove any doubt as to the application of this section to searches which have uniformly been upheld.

Reference to misdemeanor was omitted in view of definitive section 1 of this title. (See reviser’s note under section 212 of this title.)

Words “upon conviction thereof shall be” were omitted as surplusage, since punishment cannot be imposed until conviction is secured.

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104-294 substituted “fined under this title” for “fined not more than \$1,000”.

CROSS REFERENCES

False representation as officer and search by impersonator, see section 913 of this title.

Minor offenses tried by United States magistrate judges as excluding offenses punishable under this section, see section 3401 of this title.

Unreasonable searches and seizures prohibited, see Const. Amend. 4.

CHAPTER 109A—SEXUAL ABUSE

Sec.

- 2241. Aggravated sexual abuse.
- 2242. Sexual abuse.
- 2243. Sexual abuse of a minor or ward.
- 2244. Abusive sexual contact.
- 2245. Sexual abuse resulting in death.
- 2246. Definitions for chapter.
- 2247. Repeat offenders.
- 2248. Mandatory restitution.

CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical chapters 109A.

AMENDMENTS

1994—Pub. L. 103-322, title IV, §§40111(c), 40113(a)(2), title VI, §60010(b), Sept. 13, 1994, 108 Stat. 1903, 1907, 1973, redesignated item 2245 as 2246 and added items 2245, 2247, and 2248.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 113, 1153, 2251, 2252, 2252A, 2260, 2261, 2262, 2423, 3156, 3185, 3592, 3663 of this title; title 42 sections 3796gg-2, 13943; title 46 section 10104; title 49 section 46506.

§ 2241. Aggravated sexual abuse

(a) BY FORCE OR THREAT.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly causes another person to engage in a sexual act—